

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

STAG WILLIAMSPORT, LLC,	X	
	:	
	:	
Plaintiff,	:	Case No. 1:21-cv-11958-NMG
v.	:	
	:	
	:	
BHN ASSOCIATES, LLC, et al.,	:	
	:	
Defendants.	:	
	:	
	X	

**ATTORNEY JOSHUA M. HERMAN’S AFFIDAVIT IN SUPPORT OF MOTION FOR
LEAVE TO WITHDRAW AS ATTORNEY OF RECORD FOR DEFENDANT BHN
ASSOCIATES, LLC, AND FOR AN ORDER STAYING PROCEEDINGS FOR 30 DAYS
FOR DEFENDANT BHN ASSOCIATES, LLC TO FIND SUCCESSOR COUNSEL**

I, Joshua M. Herman, Esq., do depose and state:

1. I am an attorney with the law firm Herrick, Feinstein LLP in New York.
2. I am admitted *pro hac vice* to practice before this Court.
3. I and my colleague Avery S. Mehlman of Herrick, Feinstein LLP, along with William C. Nystrom and Patrick L. Marinaro of Nystrom Beckman & Paris LLP (collectively, “BHN’s Counsel”), are counsel of record for BHN Associates, LLC (“BHN”), the Defendant in the above-captioned matter.
4. On June 14, 2023, BHN informed me during a phone call that BHN did not want BHN’s Counsel to represent it any further in this matter. I was instructed by BHN to seek Plaintiff’s consent to a 30-day stay so that BHN can obtain new counsel, or, if Plaintiff’s counsel will not consent, to move to withdraw as counsel.
5. In addition to BHN’s instruction, I have also determined that BHN and BHN’s Counsel have irreconcilable differences and an irretrievable breakdown in the attorney-client

relationship with regard to BHN's Counsel's representation of BHN in this matter. I am constrained by attorney-client privilege to disclose details of these issues. But generally, they arise from unreasonable difficulties in communicating with respect to discovery and legal strategy, and from unpaid invoices outstanding for many months.

6. On June 14, 2023, I emailed Plaintiff's counsel to inform Plaintiff that BHN's Counsel had been instructed to cease representing BHN in this matter and to request Plaintiff's consent to a 30-day stay so that BHN can obtain successor counsel.

7. On June 15, 2023, Plaintiff's counsel advised me that Plaintiff would not consent to a stay.

8. Pursuant to Local Rule 7.1, on June 16, 2023, I emailed Plaintiff's counsel to meet and confer in good faith to obtain Plaintiff's consent to the present motion for leave to withdraw as counsel of record. Plaintiff has not responded to my email.

9. Pursuant to the Scheduling Conference held on December 19, 2022 (Dkt. No. 41), written discovery was to be answered by May 31, 2023, fact depositions and fact discovery is to be completed by June 30, 2023, dispositive motions are due by July 31, 2023, and Jury Trial is

set for November 27, 2023. An ADR Conference is scheduled before Magistrate Judge Robert B. Collings for July 20, 2023 at 11:00 a.m. via videoconference.

10. The parties have served initial disclosures, requests for documents, and responses and objections to document requests. However, neither party has begun producing documents.

11. On April 28, 2023, STAG served BHN with Requests for Admissions (“RFA’s”) and Interrogatories. BHN has not responded to the RFA’s or the Interrogatories.

12. On May 24, 2023, Plaintiff served a FRCP 30(b)(6) notice of deposition on BHN to take place on June 27, 2023. BHN has not responded to this notice of deposition.

13. Plaintiff has also provided notice to BHN that it intends to serve a subpoena on a corporate representative of non-party Titan Capital ID, LLC to testify at a deposition on June 23, 2023. I have no knowledge of whether the subpoena was served or if a deposition of Titan Capital ID, LLC has been scheduled.

14. On June 22, 2023, Plaintiff filed a motion to compel discovery responses from BHN. Opposition to this motion is due July 6, 2023.

15. I have informed BHN of all the foregoing deadlines.

16. I therefore respectfully request that the Court grant BHN’s Counsel leave to withdraw as counsel of record and stay all further proceedings for 30 days to allow BHN to find successor counsel.

Dated: June 27, 2023
New York, New York

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CERTIFICATE OF SERVICE

I hereby certify that on June 27, 2023, a true and correct copy of the above document was electronically filed with the Clerk of the United States District Court for the District of Massachusetts by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that services will be accomplished by the CM/ECF system. I further certify that a copy of the above document was served via email and Federal Express on an authorized representative of Defendant BHN Associates, LLC.

/s/ Joshua M. Herman
Joshua M. Herman